

Attachment B

Guide for Assisting States in Identifying Evidence

The probing questions provided below are intended to assist in helping states provide the information requested by CMS.

It may be helpful to call states after they receive the letter requesting information to get a feel for their understanding of and capacity to respond to the request and to help the state develop an appropriate response.

The term *monitoring* is used throughout the probing questions. For the purpose of the probing questions, monitoring refers to the process of discovery, remediation and improving performance in a specific area.

- Discovery, remediation and improvement occur both at the level of the individual and at the systemic level. It is important that the state's monitoring activities include both a process to act on individual findings and also to analyze overall findings to determine whether there are patterns or trends that require a change in rules, policies, program design, training or other systemic level intervention. *It is incorrect to assume that all individual findings require a change in the state's system. The remedy/improvement may be more appropriately targeted to specific situations.*
- Monitoring is sometimes, but not always, an ongoing activity. Some data may be collected on an ongoing basis such as data on abuse and neglect; some monitoring and data collection may be conducted on a periodic basis such as annual audits of LOCs to determine if the process is being followed correctly. In addition, some monitoring is episodic and may be targeted to a specific concern such as a pattern of injuries in a specific population cluster.

The first column is the evidence requested from states. The probing questions start in the second column. The follow-up questions in the third column are used if the state monitoring efforts for the assurance are inadequate or incomplete.

At the end of the "discover" and "remediate/improve" sections there are some cues (in **blue/bold**) about what circumstance would lead you to use the follow-up questions in the third column.

You might find that a state has a great deal of information in one assurance and relatively little in another. So you may be using the follow-up questions if part of the assurance is not met or if the entire assurance is not met. For example, you might find that a state has a well developed process for assuring the LOCs are completed on time but does relatively little to assure that staff are following the LOC process and are making accurate determinations.

A primary focus of CMS oversight is to assure that each state has its own system of on-going oversight that enables the state to discover problems as they occur, results in remediation and, overall improvement to the program throughout the life of the waiver. Many state administrative structures are complex, often involving both a state Medicaid agency and a state-operating agency. In addition, many states have sub-state entities such as regions or counties designated through state statute with the responsibility of administering community services. In other states, a decision has been made to contract with administrative entities such as regional resource centers

for the administration of the program at the local level. In such complex arrangements, it is important that the state Medicaid and operating agencies oversee sub-state administrative entities to assure that the waiver program is administered in accordance with the approved waiver and consistently across the state or the geographical area covered by the waiver.

In addition to the complexity of layered administrative entities, it is important to determine the extent to which the routine monitoring of individual recipients, their POCs and services is conducted by entities that provide the service (providers monitoring their own services) or by entities independent of the provider of service. In monitoring arrangements where there is an innate conflict of interest, the state needs to have a mechanism to balance any conflict of interest.

PROBING QUESTIONS

Monitoring Level of Care (LOC) Determinations	Probing Questions	Follow-Up Questions
<p>States are asked to provide evidence that:</p> <ul style="list-style-type: none"> ▪ An evaluation for level of care is provided to all applicants for whom there is reasonable indication that services may be needed in the future ▪ Enrolled participants are reevaluated at least annually or as specified in its approved waiver ▪ The process and instruments described in the approved waiver are applied to determine LOC ▪ The state monitors level of care decisions and takes action to address inappropriate level of care determinations 	<p>Probing Questions to assist states in providing evidence:</p> <p>Discovery:</p> <ol style="list-style-type: none"> 1. Does the state have a process for monitoring this assurance? <p>If NO, go to the follow-up question 1. If YES, proceed with the probing questions.</p> <p>Does your monitoring:</p> <ul style="list-style-type: none"> ▪ Track the length of time between the application and completion of the LOC assessment? ▪ Track the timeliness of LOC re-assessments? ▪ Review LOC assessments/re-assessments to determine if the process is being followed and that the LOC determinations are accurate? <p>When monitoring:</p> <ul style="list-style-type: none"> ▪ Do you review all waiver participants or draw a sample? ▪ If you sample how do you know you can draw conclusions about the entire system? ▪ How often is the review conducted? ▪ How current is the data? 	<ol style="list-style-type: none"> 1. Do you have a plan to develop a process for monitoring this assurance? <p>If YES – Ask for a brief description and explain that:</p> <ul style="list-style-type: none"> ▪ The state should describe the process they intend to establish with timeframes in their response to the draft report. ▪ The state’s renewal application should affirm that the processes will be part of the state’s oversight activities. <p>If NO – Explain that:</p> <ul style="list-style-type: none"> ▪ The absence of a process(es) for monitoring the assurance will be identified in the draft report with recommendations to develop one.

<p>Monitoring Level of Care (LOC) Determinations, continued</p>	<p>2. Do you have a means of:</p> <ul style="list-style-type: none"> ▪ Documenting findings, i.e., do you have a data collection tool? ▪ Analyzing aggregate data to discover statewide and/or sub-state trends in such areas as percentage of inappropriate LOC determinations or differences in length of time to complete the LOC determinations from one area of the state to another? <p>If NO, go to follow-up question 2. If YES, ask the state to send you the documentation and proceed with the probing questions. (Note that documentation should be in the form of summary reports of the aggregate data. Documentation submitted should not be in the form of policies and procedures, regulations or raw data.)</p> <p>Remediate/Improve:</p> <ol style="list-style-type: none"> 1. Who reviews the LOC monitoring reports and decides what, if any, improvements are needed (e.g., quality improvement committee or other program oversight entity)? 2. What corrective actions have you taken based on these findings? 3. What initiatives have you undertaken on LOC based on the results (e.g., changes in LOC policies and procedures, training in conducting LOC assessments, “tickler” system for re-assessments)? 4. How were the remedies and improvements documented (e.g., meeting minutes, reports)? <p>If the state has taken action when needed, ask them to submit the report(s) including the strategies for improvement. If there is no process for reviewing the reports or no</p>	<p>2. Do you have a plan to develop a means of documenting findings, analyzing aggregate data to discover statewide or sub-state trends and a process for remediation/improvement?</p> <p>If YES – Ask for a brief description and explain that:</p> <ul style="list-style-type: none"> ▪ The state should describe the process they intend to establish with timeframes in their response to the draft report. ▪ The state’s renewal application should affirm that the process will be part of the state’s oversight activities. <p>If NO – Explain that:</p> <ul style="list-style-type: none"> ▪ The absence of a means for documenting and reporting the aggregate data and a process for remediation/improvement will be identified in the draft report with recommendations to develop one.
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	strategies were implemented when problems were identified, go to follow-up question 2.	
Monitoring Plans of Care (POC)	Probing Questions	Follow-Up Questions
<p>States are asked to provide evidence that:</p> <ul style="list-style-type: none"> POCs address all participants' assessed needs (including health and safety risk factors) and personal goals, either by waiver services or through other means The state monitors POC development in accordance with its policies and procedures and takes appropriate action when it identifies inadequacies in the development of POCs POCs are updated/revised when warranted by changes in the waiver participant's needs Services are specified by type, amount, duration, scope and frequency and delivered in accordance with the POC The state assures that participants are afforded choice: <ul style="list-style-type: none"> Between waiver services and institutional care Between/among waiver services and providers 	<p>Probing Questions to assist states in providing evidence:</p> <p>Discovery:</p> <ol style="list-style-type: none"> Does your state have a process to monitor this assurance? <p>If NO, go to the follow-up question 1. If YES, proceed with the probing questions.</p> <p>Does your monitoring:</p> <ul style="list-style-type: none"> Determine whether adequate assessments are conducted before the POC is developed? Determine if POCs are identifying and addressing <u>all</u> the participant's assessed needs? Determine if issues that place the person at risk are addressed in the POC? Determine whether participants are receiving the type, amount, duration, scope and frequency of services as identified in the POC? Include interviews with participants and families about their choices of services, providers and/or their perception of the planning process (e.g., Participant Experience Survey or National Core Indicators)? <p>When monitoring:</p> <ul style="list-style-type: none"> Do you review all waiver participants or draw a sample? If you sample how do you know you can draw conclusions about the entire system? 	<p>1. Do you have a plan to develop a process for monitoring this assurance?</p> <p>If YES – Ask for a brief description and explain that:</p> <ul style="list-style-type: none"> The state should describe the process they intend to establish with timeframes in their response to the draft report. The state's renewal application should affirm that the processes will be part of the state's oversight activities. <p>If NO – Explain that:</p> <ul style="list-style-type: none"> The absence of a process (es) for monitoring the assurance will be identified in the draft report with recommendations to develop one.

<p>Monitoring Plans of Care (POC), continued</p>	<ul style="list-style-type: none"> ▪ How often is the review conducted? ▪ How current is the data? <p>2. Do you have a means of:</p> <ul style="list-style-type: none"> ▪ Documenting the findings? ▪ Analyzing aggregate data to discover statewide and/or sub-state trends in such areas as percentage of POCs completed within the prescribed time lines, provider, state or sub-state trends in implementing POC strategies, percentage of participants and families that express satisfaction/dissatisfaction with the POC process and/or their choices? <p>If NO, go to follow-up question 2. If YES, ask the state to send you the documentation and proceed with the probing questions. (Note that documentation should be in the form of summary reports of the aggregate data. Documentation submitted should not be in the form of policies and procedures, regulations or raw data.)</p> <p>Remediate/Improve:</p> <ol style="list-style-type: none"> 1. Who reviews the reports and aggregate data (e.g., quality improvement committee or other program oversight entity) 2. What corrective actions have you taken based on the findings? For example, what steps were taken when there was a pattern of: <ul style="list-style-type: none"> ▪ Needs identified in the LOC not being adequately addressed the participants' POC. ▪ POCs not completed on time. ▪ Participants not receiving some or all of the services identified in the POC. ▪ Participants not provided the freedom to choose waiver services and/or service providers. ▪ Participants' choices were limited and you 	<p>2. Do you have a plan to develop a means of documenting findings, analyzing aggregate data to discover statewide or sub-state trends and a process for remediation/improvement?</p> <p>If YES – Ask for a brief description and explain that:</p> <ul style="list-style-type: none"> ▪ The state should describe the process they intend to establish with timeframes in their response to the draft report. ▪ The state's renewal application should affirm that the process will be part of the state's oversight activities. <p>If NO – Explain that:</p> <ul style="list-style-type: none"> ▪ The absence of a means for documenting and reporting the aggregate data and a process for remediation/improvement will be identified in the draft report with recommendations to develop one.
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Monitoring Plans of Care (POC), continued	<p>identified a need to increase the provider network.</p> <p>3. What initiatives have you undertaken based on the results (e.g., enhanced case management monitoring of POC implementation, POC training for providers and case managers, improved supervisory oversight of POC development and implementation)?</p> <p>4. How were the remedies and improvements documented (e.g., meeting minutes, reports)?</p> <p>If the state has taken action when needed, ask them to submit the report(s) including the strategies for improvement. If there is no process for reviewing the reports or no strategies were implemented when problems were identified, go to follow-up question 2.</p>	
Monitoring Providers	Probing Questions	Follow-Up Questions
<p>States are asked to provide evidence that:</p> <ul style="list-style-type: none"> ▪ The state verifies, on a periodic basis, that providers meet required licensing and/or certification standards and adhere to other State standards ▪ The state monitors non-licensed/non-certified providers to assure adherence to waiver requirements ▪ The state identifies and rectifies situations where providers do not meet requirements ▪ The state implements its policies and procedures for verifying that training is provided in accordance with state requirements and the approved 	<p>Probing Questions to assist states in providing evidence:</p> <p>Discovery:</p> <p>1. Does your state have a process to monitor this assurance?</p> <p>If NO, go to the follow-up question 1. If YES, proceed with the probing questions.</p> <p>Does your monitoring determine that:</p> <ul style="list-style-type: none"> ▪ Providers subject to licensing/certification meet provider-specific requirements? ▪ Providers not subject to licensing/certification have the necessary qualifications and competencies to meet participants' needs? ▪ Initial training requirements are met before caregivers start to work with participants and that they have the competencies to meet participant needs? 	<p>1. Do you have a plan to develop a process for monitoring this assurance?</p> <p>If YES – Ask for a brief description and explain that:</p> <ul style="list-style-type: none"> ▪ The state should describe the process they intend to establish with timeframes in their response to the draft report. ▪ The state's renewal application should affirm that the processes will be part of the state's oversight activities. <p>If NO – Explain that:</p> <ul style="list-style-type: none"> ▪ The absence of a process(es) for monitoring the assurance will be identified in the draft report with recommendations to develop one.

<p>waiver</p> <p>Monitoring Providers, continued</p>	<ul style="list-style-type: none"> ▪ Providers know and adhere to waiver requirements? <p>When monitoring:</p> <ul style="list-style-type: none"> ▪ Do you review all waiver participants or draw a sample? ▪ If you sample how do you know you can draw conclusions about the entire system? ▪ How often is the review conducted? ▪ How current is the data? <p>2. Do you have a means of:</p> <ul style="list-style-type: none"> ▪ Documenting the findings? ▪ Analyzing aggregate data to discover statewide and/or sub-state trends in such areas as providers not meeting licensure/certification requirements? <p>If NO, go to follow-up question 2. If YES, ask the state to send you the documentation and proceed with the probing questions. (Note that documentation should be in the form of summary reports of the aggregate data. Documentation submitted should not be in the form of policies and procedures, regulations or raw data.)</p> <p>Remediate/Improve:</p> <ol style="list-style-type: none"> 1. Who reviews the monitoring reports and decides what, if any, improvements are needed (e.g. quality improvement committee or other program oversight entity)? 2. What corrective actions have you taken based on the findings? For example, <ul style="list-style-type: none"> ▪ If providers have been identified as being out of compliance with state standards, what was done and how quickly? ▪ How do you verify that issues were corrected? 	<p>2. Do you have a plan to develop a means of documenting findings, analyzing aggregate data to discover statewide or sub-state trends and a process for remediation/improvement?</p> <p>If YES – Ask for a brief description and explain that:</p> <ul style="list-style-type: none"> ▪ The state should describe the process they intend to establish with timeframes in their response to the draft report. ▪ The state’s renewal application should affirm that the process will be part of the state’s oversight activities. <p>If NO – Explain that:</p> <ul style="list-style-type: none"> ▪ The absence of a means for documenting and reporting the aggregate data and a process for remediation/improvement will be identified in the draft report with recommendations to develop one.
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Monitoring Providers, continued	<p>3. What initiatives have you undertaken if you identified systemic problems with the skills of licensed and non-licensed providers?</p> <p>4. How were the remedies and improvements documented (e.g., meeting minutes, reports)?</p> <p>If the state has taken action when needed, ask them to submit the report(s) including the strategies for improvement. If there is no process for reviewing the reports or no strategies were implemented when problems were identified, go to follow-up question 2.</p>	
Monitoring Participant Health and Welfare	Probing Questions	Follow-Up Questions
<p>States are asked to provide evidence that:</p> <ul style="list-style-type: none"> ▪ The state, on an ongoing basis, identifies and addresses and seeks to prevent instances of abuse, neglect, exploitation 	<p>Probing Questions to assist states in providing evidence:</p> <p>Discovery:</p> <p>1. Do you have a process to monitor this assurance?</p> <p>If NO, go to the follow-up question 1. If YES, proceed with the probing questions.</p> <p>Does your monitoring determine that:</p> <ul style="list-style-type: none"> ▪ Participants' families/legal guardians' and caregivers' complaints are identified, tracked and addressed? ▪ Abuse/neglect/exploitation incidents are identified, tracked and actions taken to assure participants' safety? ▪ Participants and caregivers, family members and guardians know how to report concerns or incidents of abuse, neglect, and exploitation? ▪ Participant funds aren't exploited? ▪ Situations in which the participant's health and welfare have not been safeguarded are 	<p>1. Do you have a plan to develop a process for monitoring this assurance?</p> <p>If YES – Ask for a brief description and explain that:</p> <ul style="list-style-type: none"> ▪ The state should describe the process they intend to establish with timeframes in their response to the draft report. ▪ The state's renewal application should affirm that the processes will be part of the state's oversight activities. <p>If NO – Explain that:</p> <ul style="list-style-type: none"> ▪ The absence of a process(es) for monitoring the assurance be identified in the draft report with recommendations to develop one.

<p>Monitoring Participant Health and Welfare, continued</p>	<p>acted upon timely and appropriately?</p> <p>When monitoring:</p> <ul style="list-style-type: none"> ▪ Do you review all waiver participants or draw a sample? ▪ If you sample how do you know you can draw conclusions about the entire system? ▪ How often is the review conducted? ▪ How current is the data? <p>2. Do you have a means of:</p> <ul style="list-style-type: none"> ▪ Documenting the findings? ▪ Analyzing aggregate data to discover statewide and/or sub-state trends in such areas as incidents of abuse, neglect, and exploitation, medication errors or mismanagement of funds? <p>If NO, go to follow-up question 2. If YES, ask the state to send you the documentation and proceed with the probing questions. (Note that documentation should be in the form of summary reports of the aggregate data. Documentation submitted should not be in the form of policies and procedures, regulations or raw data.)</p> <p>Remediate/Improve:</p> <p>1. Who reviews the monitoring reports and decides what, if any, improvements are needed (e.g. quality improvement committee or other program oversight entity)? For example,</p> <ul style="list-style-type: none"> ▪ What was done when incidents of abuse were not reported in accordance with waiver procedures or when follow-up actions were not taken? ▪ What was done if there was a pattern of complaints related to poor quality of care 	<p>2. Do you have a plan to develop a means of documenting findings, analyzing aggregate data to discover statewide or sub-state trends and a process for remediation/improvement?</p> <p>If YES – Ask for a brief description and explain that:</p> <ul style="list-style-type: none"> ▪ The state should describe the process they intend to establish with timeframes in their response to the draft report. ▪ The state’s renewal application should affirm that the process will be part of the state’s oversight activities. <p>If NO – Explain that:</p> <ul style="list-style-type: none"> ▪ The absence of a means for documenting and reporting the aggregate data and a process for remediation/improvement will be identified in the draft report with recommendations to develop one.
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Monitoring Participant Health and Welfare, continued	<p>by a provider or other sub-state entity?</p> <ol style="list-style-type: none"> 2. What corrective actions or initiatives did you take (e.g., changes in policy, new/updated guidelines, statewide training) if you discovered an increase or a trend in such areas as: <ul style="list-style-type: none"> ▪ The use of restraints or medication errors ▪ Problems with participants' funds ▪ Certain types of abuse, neglect, or exploitation incidents 3. How were the remedies and improvements documented (e.g., meeting minutes, reports)? <p>If the state has taken action when needed, ask them to submit the report(s) including the strategies for improvement. If there is no process for reviewing the reports or no strategies were implemented when problems were identified, go to follow-up question 2.</p>	
Monitoring Administrative Authority (when operating agency differs from Medicaid agency)	Probing Questions	Follow-Up Questions
<p>States are asked to provide evidence that:</p> <ul style="list-style-type: none"> ▪ The Medicaid agency or operating agency conducts routine, ongoing oversight of the waiver program 	<p>Probing Questions to assist states in providing evidence:</p> <p>Discovery:</p> <ol style="list-style-type: none"> 1. Does the state Medicaid agency have a process for oversight of the waiver program? <p>If NO, go to the follow-up question 1. If YES, proceed with the probing questions.</p> <p>If the Medicaid agency and operating agency are separate entities:</p> <ul style="list-style-type: none"> ▪ Is there a memorandum of understanding (MOU) or inter-agency agreement defining the oversight and policy setting responsibilities of each entity? ▪ Does the Medicaid agency monitor implementation of the MOU or agreement to 	<ol style="list-style-type: none"> 1. Do you have a plan to develop a process for monitoring this assurance? <p>If YES – Ask for a brief description and explain that:</p> <ul style="list-style-type: none"> ▪ The state should describe the process they intend to establish with timeframes in their response to the draft report. ▪ The state's renewal application should affirm that the processes will be part of the state's oversight activities. <p>If NO – Explain that:</p> <ul style="list-style-type: none"> ▪ The absence of a process(es) for monitoring the assurance will be identified in the draft report with recommendations

<p>Monitoring Administrative Authority, continued</p>	<p>assure that the provisions are executed?</p> <ul style="list-style-type: none"> ▪ Does the agreement call for the operating agency to provide results of its monitoring activities to the Medicaid agency for review? If yes, how are the results communicated to the Medicaid agency? ▪ If the Medicaid agency conducts its own reviews, are the results communicated to the operating agency? <p>Remediate/Improve:</p> <ol style="list-style-type: none"> 1. What corrective actions were taken based on these findings? 2. How does the Medicaid agency assure that the operating agency made systemic improvements when necessary? <p>If the state has taken action when needed, ask them to submit the report(s) including the strategies for improvement. If there is no process for reviewing the reports or no strategies were implemented when problems were identified, go to follow-up question 2.</p>	<p>to develop one.</p> <p>2. Do you have a plan to develop a means of documenting findings, analyzing aggregate data to discover statewide or sub-state trends and a process for remediation/improvement?</p> <p>If YES – Ask for a brief description and explain that:</p> <ul style="list-style-type: none"> ▪ The state should describe the process they intend to establish with timeframes in their response to the draft report. ▪ The state’s renewal application should affirm that the process will be part of the state’s oversight activities. <p>If NO – Explain that:</p> <ul style="list-style-type: none"> ▪ The absence of a means for documenting and reporting the aggregate data and a process for remediation/improvement will be identified in the draft report with recommendations to develop one.
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Monitoring Financial Accountability	Probing Questions	Follow-Up Questions
<p>States are asked to provide evidence that:</p> <ul style="list-style-type: none"> State financial oversight exists to assure that claims are coded and paid in accordance with the reimbursement methodology specified in the approved waiver 	<p>Probing Questions to assist states in providing evidence:</p> <p>Discovery:</p> <p>1. Do you have a process for monitoring this assurance?</p> <p>If NO, go to the follow-up question 1. If YES, proceed with the probing questions.</p> <p>Does your monitoring determine that:</p> <ul style="list-style-type: none"> Financial records are maintained (by the state, sub-state managing entities and providers) as specified in the approved waiver? Participant claims are coded and paid according to the waiver reimbursement methodology? Financial irregularities or errors/adjustments made by the state and/or providers are identified, addressed, and corrected? <p>When monitoring:</p> <ul style="list-style-type: none"> Do you review all waiver participants or draw a sample? If you sample how do you know you can draw conclusions about the entire system? How often is the review conducted? How current is the data? Have you conducted focus reviews if particular problems are suspected? 	<p>1. Do you have a plan to develop a process for monitoring this assurance?</p> <p>If YES – Ask for a brief description and explain that:</p> <ul style="list-style-type: none"> The state should describe the process they intend to establish with timeframes in their response to the draft report. The state’s renewal application should affirm that the processes will be part of the state’s oversight activities. <p>If NO – Explain that:</p> <ul style="list-style-type: none"> The absence of a process(es) for monitoring the assurance will be identified in the draft report with recommendations to develop one.

<p>Monitoring Financial Accountability, continued</p>	<p>2. Do you have a means of:</p> <ul style="list-style-type: none"> ▪ Documenting the findings? ▪ Analyzing aggregate data to discover statewide and/or sub-state trends? <p>If NO, go to follow-up question 2. If YES, ask the state to send you the documentation and proceed with the probing questions. (Note that documentation should be in the form of summary reports of the aggregate data. Documentation submitted should not be in the form of policies and procedures, regulations or raw data.)</p> <p>Remediate/Improve:</p> <ol style="list-style-type: none"> 1. Who reviews the monitoring reports and decides what, if any, improvements are needed (e.g. quality improvement committee or other program oversight entity)? 2. What corrective actions have you taken based on the findings? 3. What initiatives have you undertaken in financial management over the waiver based on the results? 4. How were the remedies and improvements documented (e.g., meeting minutes, reports)? <p>If the state has taken action when needed, ask them to submit the report(s) including the strategies for improvement. If there is no process for reviewing the reports or no strategies were implemented when problems were identified, go to follow-up question 2.</p>	<p>2. Do you have a plan to develop a means of documenting findings, analyzing aggregate data to discover statewide or sub-state trends and a process for remediation/improvement?</p> <p>If YES – Ask for a brief description and explain that:</p> <ul style="list-style-type: none"> ▪ The state should describe the process they intend to establish with timeframes in their response to the draft report. ▪ The state’s renewal application should affirm that the process will be part of the state’s oversight activities. <p>If NO – Explain that:</p> <ul style="list-style-type: none"> ▪ The absence of a means for documenting and reporting the aggregate data and a process for remediation/improvement will be identified in the draft report with recommendations to develop one.
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